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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,072	09/16/2003	Benny Donald Mashburn	474.005	2056

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PERRET DOISE  
A PROFESSIONAL LAW CORPORATION  
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LAFAYETTE, LA 70502-3408

EXAMINER
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GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/663,072	Applicant(s) MASHBURN, BENNY DONALD	
	Examiner Harry A. Grosso	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12,14-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Drawings***

The objection to the drawings has been overcome by the amendment filed November 15, 2006. The objection is withdrawn.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-9, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel (6,422,405) in view of Keenan et al (4,714,169) (Keenan), Steyn et al (2004/0206879 A1, October 21, 2004) and Kurtgis (4,478,312).

3. Regarding claim 1, Haenszel discloses a tool basket having a center section of rectangular cross section shape with outer corner members (25, 30 and 45) joined by bottom and side members and wing sections with inner corner members (50) disposed with the outer corner members forming an annulus between the inner and outer members (Figures 2, 3 and 8). The wing sections are selectively extendable (column 4, lines 51-63). Haenszel discloses tools (140, Figure 9) and would be capable of being lifted by a crane.

4. Haenszel does not teach outer members at all four corners. Keenan discloses a tool basket with a center section and corner members at all four corners joined by bottom and side members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of corner members at

Art Unit: 3781

all four corners joined by bottom and side members as disclosed by Keenan in the basket disclosed by Haenszel to provide additional structural strength and rigidity.

Haenszel does not teach the use of inner and outer bushings on the corner members.

Steyn discloses a telescoping member (Figure 1A) with a bushing on the inner member (26) that is a cap over an end of the inner member and a bushing on the outer member (2) with both bushings disposed in the annulus between the inner and outer members (paragraph 0038). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of bushings as disclosed by Steyn in the basket disclosed by Haenszel to provide for smooth movement and alignment of the inner member in the outer member and prevent the inner member from being unintentionally pulled completely out of the outer member.

5. Haenszel does not teach the use of padeyes on the center section. Kurtgis discloses a basket with a center and wing sections and padeyes on the center section for lifting the basket with cables (26, Figures 1-4) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of padeyes on the center section as disclosed by Kurtgis in the basket of claim 10 to provide a means for lifting the basket with cables.

6. Regarding claims 6 and 7, Haenszel discloses a means for locking the wing section the center section comprising holes and pins (Figures 2 and 8, A-D and pin 65, column 4, lines 29-43).

Art Unit: 3781

7. Regarding claim 8, Haenszel discloses tool cradles in the center section (Figure 9).

8. Regarding claim 9, Haenszel discloses a skid under the center section (Figures 1 and 2).

9. Regarding claim 12, Haenszel as modified by Keenan, Steyn and Kurtgis discloses the adjustable basket with tubular inner and outer corner members and bushings and means for locking the wing section and the center section as discussed above.

10. Regarding claim 19, Haenszel discloses the inner and outer corner members have a rectangular cross section.

11. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Steyn and Kurtgis in view of Friedman et al (3,604,734). Haenszel, Keenan, Steyn and Kurtgis disclose the invention except for the use of an elastomer such as polytetraflouroethylene for the bushings. Freidman et al discloses the use of a polytetraflouroethylene (Teflon) as a bushing between inner and outer tubular members (Figure 4, column 2, lines 56-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a polytetraflouroethylene bushing as disclosed by Friedman et al in the basket of claim 1 because it is known to use polytetraflouroethylene as a bushing material between inner and outer tubular members that telescope.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Steyn and Kurtgis in view of Moran (2002/0016211 A1, February 7, 2002).

Art Unit: 3781

Haenszel, Keenan, Steyn and Kurtgis disclose the invention except for the use of brass for the bushings. Moran discloses the use of brass as a bushing between inner and outer tubular members (41, Figure 6, paragraph 0040). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a brass bushing as disclosed by Moran in the basket of claim 1 because it is known to use brass as a bushing material between inner and outer tubular members that telescope.

13. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Steyn and Kurtgis in view of Serden (7,000,795). Haenszel, Keenan, Steyn and Kurtgis disclose the invention except for the use of rollers on the wing sections. Haenszel discloses rollers (70) on the center section. Serden discloses a container with a center section and wing sections with a roller at the outer end of the wing section to facilitate moving it out from the center section (52, Figure 2, column 2, lines 41-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of rollers on the wing section as disclosed by Serden in the basket of claim 9 to facilitate moving the wing section out from the center section.

14. Claims 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis and Steyn in view of Serden (7,000,795).

15. Regarding claim 14, Haenszel, Keenan, Kurtgis and Steyn disclose the invention except for the use of rollers on the wing sections. Haenszel discloses rollers (70) on the center section. Serden discloses a container with a center section and wing sections

with a roller at the outer end of the wing section to facilitate moving it out from the center section as discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of rollers on the wing section as disclosed by Serden in the basket of claim 14 to facilitate moving the wing section out from the center section

16. Regarding claim 15, Haenszel discloses a means for locking the wing section the center section comprising holes and pins (Figures 2 and 8, A-D and pin 65, column 4, lines 29-43).

17. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis, Steyn and Serden in view of Friedman et al.

18. Regarding claim 16, Haenszel, Keenan, Kurtgis, Steyn and Serden disclose the invention except for the use of a polytetraflouroethylene for the bushings. Freidman et al discloses the use of a polytetraflouroethylene (Teflon) as a bushing between inner and outer tubular members (Figure 4, column 2, lines 56-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a polytetraflouroethylene bushing as disclosed by Friedman et al in the basket of claim 15 because it is known to use polytetraflouroethylene as a bushing material between inner and outer tubular members that telescope.

19. Regarding claim 17, Haenszel discloses a tool cradle in the center section (Figure 9).

20. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis, Steyn and Serden in view of Moran. Haenszel, Keenan,

Art Unit: 3781

Kurtgis, Steyn and Serden disclose the invention except for the use of brass for the bushings. Moran discloses the use of brass as a bushing between inner and outer tubular members (41, Figure 6, paragraph 0040). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a brass bushing as disclosed by Moran in the basket of claim 15 because it is known to use brass as a bushing material between inner and outer tubular members that telescope.

### ***Response to Arguments***

21. Applicant's arguments filed November 15, 2006 have been fully considered but they are not persuasive. Applicant argues that Haenszel does not disclose wings that are selectively extendable in order to create a center of gravity within the center section. In response, Haenszel does disclose the wings are selectively extendable (column 4, lines 51-63). Creation of a center of gravity within the center section is an intended use and Haenszel would be capable of this function.

22. Applicant argues that Serden is not a telescoping tool basket and does not teach wings that are selectively extendable. Both applicant and Serden disclose a container with extendable wings. As such Serden is analogous art. Serden is not relied upon to teach selectively extendable wings but teaches the use of rollers on the wings.

23. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the



references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Steyn is relied upon to teach the use of inner and outer bushings on the corner members. It is not unreasonable to expect one of ordinary skill in the art to be familiar with the use of bushings to provide smooth movement and alignment of two telescoping members. Steyn addresses the same problem that is being addressed by applicant in the use of the bushings, smooth movement and alignment of the telescoping members.

### ***Conclusion***

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

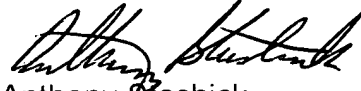
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-

Art Unit: 3781

4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anthony Stashick  
Supervisory Patent Examiner  
Art Unit 3781

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